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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,419	02/17/2004	Lucas Everhardus Maria Langezaal	30394-1120	6291
5179	7590	08/07/2006		
PEACOCK MYERS, P.C. 201 THIRD STREET, N.W. SUITE 1340 ALBUQUERQUE, NM 87102			EXAMINER GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/782,419

**Applicant(s)**LANGEZAAL, LUCAS  
EVERHARDUS MARIA**Examiner**

Jeffrey L. Gellner

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-35,38,39 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36, 37, 40, 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Numbering***

There are two claims with the number 39. The second claim 39 has been renumbered claim 40; previous claim 40 is now claim 41; and, previous claim 41 is now claim 42. Applicant is requested to use the revised claim numbers in any response to this office action.

### ***Election/Restrictions***

Applicant's election with traverse of the combination of Invention II - Species A (growth medium with organic base material) in the reply filed on 20 July 2006 is acknowledged. The traversal is on the ground(s) that there is no burden on the Examiner (Remarks, bottom of 1<sup>st</sup> page). This is not found persuasive because the method and the composition were classified in different classes which would necessitate different searches. Different searches is a burden on the Examiner (see MPEP 808.02). Examiner withdraws the requirement that Applicant elect a specific organic material.

The requirement is still deemed proper and is therefore made FINAL. Claims 1-35 are withdrawn from examination because they are drawn to the non-elected invention; claims 38, 39, and 41 (previous claim 40) are withdrawn from examination because they are drawn to the non-elected species.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36, 37, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otsuji et al. (US 2001/0009142 A1) in view of Rowell (US 4,258,659).

As to claims 36, 37, and 40, Otsuji et al. disclose a composition comprising a culture medium for growing plants (the mat of Otsuji et al. is capable of growing plants), wherein the culture medium comprises a particulate base material of organic material, sawdust or jute (para. 34); and, a thermoplastic, biologically degradable binding agent ("processed starch" of para. 44) in an amount of no more than 25% by weight ("7 to 20%" of para. 44). Not disclosed is the organic material no more than 10 mm in size. Rowell, however, discloses an organic material that is less than 10 mm (col. 4 lines 37-45). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the organic material of Otsuji et al. by using particles less than 10 mm as disclosed by Rowell so as to increase the surface area of the particle so as to increase absorption.

As to claim 42, the limitations of claim 36 are disclosed as described above. Otsuji et al. as modified by Rowell further disclose the culture medium (1 of Fig. 4 of Otsuji et al.) partially enveloping a core of base material (4 of Fig. 4 of Otsuji et al.) which is organic (para. 78 of Otsuji et al.). It would have been obvious to one of ordinary skill in the art at the time of the

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invention to further modify the composition of Otsuji et al. as modified by Rowell by using the same base organic material so as to reduce the need for multiple constituents.

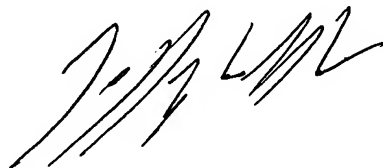
### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lemay and Suzuki et al. disclose in the prior art various compositions of an organic material and a binder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jeffrey L. Gellner  
Primary Examiner  
Art Unit 3643